

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSH COHEN,	:	
	:	
Plaintiff,	:	<u>ORDER</u>
	:	
-against-	:	
	:	23 Civ. 10359 (JPC) (GWG)
ACTION SQUARED et al.,	:	
	:	
Defendants.	:	

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GABRIEL W. GORENSTEIN, United States Magistrate Judge

Regarding the request to file the Third Amended Complaint, Docket # 77, plaintiff should have sought an extension from the Court for the late filing. Notwithstanding this failure, the Court will, in this instance, extend its deadline to request to file the Third Amended Complaint to December 28, 2024, sua sponte. Plaintiff is reminded to comply with deadlines in the future.

As to the merits of the request, permission to file the Third Amended Complaint, as annexed to Docket # 77, is granted. Of course, this grant of permission is without prejudice to any future arguments that the complaint fails to state a claim or violates Fed. R. Civ. P. 8(a)(2).

Plaintiff is directed to file the Third Amended Complaint on or before January 21, 2025.


Certain defendants appear to argue that the proposed complaint violates Fed. R. Civ. P. 8(a)(2). See Docket # 78. Given the potential merit of this argument, as previously described by the Court (Docket # 25, 73), and given that compliance with Rule 8 is a threshold requirement of any pleading, the question of whether there has been a violation of Fed. R. Civ. P. 8(a)(2) must be decided in advance of the Court considering any other arguments with respect to the complaint or requiring any answer to the complaint. Accordingly, all defendants seeking to dismiss the complaint pursuant to Fed. R. Civ. P. 8(a)(2) shall file a motion seeking dismissal on only that basis on or before January 31, 2025. Any opposition by plaintiff shall be filed on or before February 14, 2025. Any reply shall be filed on or before February 28, 2025. The Court strongly urges, but is not requiring, defendants to coordinate the filing of a single motion on this issue.

Any defendant that does not file a Rule 8 motion shall instead file a letter on or before February 7, 2025, indicating either (1) that it joins an existing motion or (2) that it proposes to answer or move to dismiss on issues other than the Fed. R. Civ. P. 8. If any defendant proposes to move to dismiss on other issues, the letter shall explain the basis for the proposed motion. Plaintiff may respond to any such letter by February 21, 2025.

No other response to the proposed Third Amended Complaint is required at this time until further Order of the Court. If any defendant indicates its intention to file an answer to the Third Amended Complaint, the Court will set a deadline for such answer.

SO ORDERED.

Dated: New York, New York
January 14, 2025



GABRIEL W. CORENSTEIN
United States Magistrate Judge